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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,504	01/30/2002	Lorraine M. Martinez	261/151	1829
30452	7590	12/14/2004	EXAMINER	
EDWARDS LIFESCIENCES CORPORATION			WEBB, SARAH K	
ONE EDWARDS WAY			ART UNIT	
IRVINE, CA 92614			PAPER NUMBER	

3731

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,504

Applicant(s)

MARTINEZ ET AL.

Examiner

Sarah K Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,910,154 (Tsugita et al.).

Tsugita discloses a device in Figure 9 that includes first and second filters (92) mounted on an elongate wire (40) and a sheath (32). The sheath is removed proximally from the filters when the guide wire is pushed distally. (See column 13, lines 10-41) Applicant discloses in the specification that a proximally moved sheath is capable of deploying two filters independently, so Tsugita meets this limitation.

2. Claims 11,12,14,15, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,485,502 (Don Michael et al.).

Don Michael discloses a device in Figure 4B that includes first and second expandable filters (4,14) mounted on an elongate wire (2). The device includes two sheaths (1,10) for deploying the filters independently (Figure 3). The proximal end of the proximal filter (14) is mounted upon the guide wire (2), as the proximal ring (16) of filter (14) receives the guide wire (2). The distal end of the distal filter (4) is bonded to the wire (2) (column 4, line 16) while the proximal end of this filter is expandable. Figure 5 illustrates the detailed structure of the filter elements (4,14). Don Michael explains that both filters (4,14) include a plurality of struts with a mesh bonded to the struts (column 6, line 51 through column 7, line 19).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsugita in view of Don Michael.

Tsugita fails to form the filters with a structure as outlined in claims 15-17. Both the proximal and distal ends of both filters are attached to the wire. The structure of the Don Michael filters, as explained above, meets the limitations of claims 15-17. Don Michael teaches that the arrangement in Figure 4B aids in tortuous, long segments of arteries (column 6, line 34). The distal filter has a distal end attached to the guide wire, while the proximal end expands outwardly from the wire. The proximal filter has a proximal end attached to the guide wire, while the distal end expands. Since both devices include two filter elements deployed in the vascular system by a sheath, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the filters of Don Michael for the filters of Tsugita, as Don Michael teaches that the arrangement of Figure 4B is advantageous for long, tortuous vessels.

Response to Arguments

4. Applicant's arguments filed 9/30/04 have been fully considered but they are not persuasive. Applicant argues that Tsugita does not meet the limitations of claims 11-14, because the mechanism for expanding the filters is pushing the guide wire distally. Since applicant does not specify the structure of the filter in the claims, the "sponge-like" filters of Tsugita meet the broad limitation. Applicant discloses in the specification and

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claims that a suitable mechanism for expanding two filters independently is a sheath that is moved proximally of the filters. Pushing the guide wire distally is analogous to pulling the sheath proximally. Both actions move the filters distal to the sheath, which also moves the sheath proximal to the filters. Therefore, Tsugita does meet the limitations of claims 11-14.

Applicant argues that Don Michael discloses two filters mounted on separate guide wires. Examiner agrees that filter (4) is **fixed to** the guide wire (2). While filter (14) is not **fixed to** the guide wire (2), it is **mounted** at the distal end of this guide wire (2). The term "mounted" is given its broadest reasonable interpretation, which includes the structure of Don Michael. The proximal end of the filter is placed upon the guide wire, as the proximal ring (16) of filter (14) receives the guide wire (2). This is considered to meet the broad limitations of claims 11, 12, 14, 15, and 17.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K Webb whose telephone number is (571) 272-4706. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SKW
12/9/04

SKW

Julian W. Woo

JULIAN W. WOO
PRIMARY EXAMINER